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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

STACY L. SHROCK,

Plaintiff,

v.

KRISTAN K. FINNEY, PC fka, THE
LAW OFFICES OF DERRICK MC
GAVIC aka DERRICK E. MC GAVIC
PC aka Mc GAVIC & FINNEY PC;
DERRICK E MC GAVIC; SUTTELL &
HAMMER, PS; PDQ, LLC.,

Defendants.

CV '11 1322-MO
Case No. _____

COMPLAINT FOR VIOLATIONS OF FAIR
DEBT COLLECTION PRACTICES ACT

JURY REQUESTED

JURISDICTION

1. Jurisdiction of this Court arises under 28 U.S.C. §1331 and pursuant to 15 U.S.C. § 1692k(d).
 2. This action arises out of Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA").
 3. Venue is proper in this District because the acts and transactions occurred here and
- COMPLAINT-1

#43457

plaintiff resides here.

PARTIES

4. Plaintiff Stacy Shrock ("Plaintiff") is a natural person who resides in West Linn, Oregon, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).
5. Defendant Kristan K. Finney, PC fka Law Offices of Derrick E Mc Gavick aka Derrick E. Mc Gavick, PC. ("Finney") is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).
6. Defendant Derrick Mc Gavic ("Mc Gavic") was formerly an attorney practicing law in Oregon and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).
7. Defendant Suttell & Hammer PS ("Suttell") is a corporation not licensed to do business in the State of Oregon. Suttell is a law firm based in Bellevue, Washington and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).
8. PDQ LLC ("PDQ") is an Oregon limited liability company that is licensed to do business in the State of Oregon. PDQ is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

9. Plaintiff obtained a Capital One credit card for personal use.
10. Defendants Mc Gavic and Finney on behalf of Capital One Bank (USA) NA filed suit against Plaintiff in Clackamas County Oregon ("State Action") wherein the parties alleged that the plaintiff was delinquent prior to the employment of Mc Gavic or Finney.
11. Mc Gavic and Finney employed PDQ to serve Plaintiff in the State Action.
12. Mc Gavic and Finney directed PDQ to serve Plaintiff at an address where she did not live.

13. Mc Gavic, Finney, and PDQ executed an affidavit provided to the Clackamas County Court that Plaintiff was avoiding service and that Mc Gavic, Finney and PDQ had done “a thorough skip tracing and are independently convinced the address listed is the actual abode of [plaintiff]***.”
14. Upon information and belief the affidavit was false because 1) the plaintiff was not avoiding service and 2) Neither Mc Gavic, Finney, nor PDQ did a thorough skip trace to verify the whereabouts of the plaintiff.
15. In the case Bernabe et al v. Mc Gavic et al case number 09-6279-TC Mc Gavic admitted that in a case with similar facts that he filed an identical affidavit that was indeed false.
16. At the time Mc Gavic, Finney and PDQ attempted service upon Plaintiff, Plaintiff was not living at the address where the parties were attempting service.
17. A thorough skip trace would have indicated plaintiff’s address at the time the parties were attempting service.
18. Capital One obtained a default judgment based upon Mc Gavic and Finney’s false affidavit.
19. Capital One retained Suttell to collect the debt it alleges is owed by Plaintiff.
20. Prior to the end of September 2011 Plaintiff informed Suttell that she had employed Keith Karnes to deal with the debt Suttell was collecting.
21. On or about September 7, 2011 Suttell wrote to Plaintiff in an attempt to collect from Plaintiff.
22. As a direct and proximate result of Defendants’ actions Plaintiff has suffered actual damages in the form of emotional distress, anger, anxiety, worry, frustration, among other negative emotions.

TRIAL BY JURY

23. Plaintiff is entitled to and hereby respectfully demands a trial by jury. US Const. amend. 7. Fed. R. Civ. Pro. 38.

CAUSES OF ACTION

COUNT I.

VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT


24. Plaintiff incorporates by reference all of the above paragraphs as though fully stated herein.
25. The foregoing acts and omissions of Defendants constitute numerous and multiple violations of the FDCPA including, but not limited to, 15 U.S.C. § 1692c(a)(2), 1692d, 1692e, 1692e(2)A, 1692e(5), 1692e(10), 1692f.
26. As a result of Defendants' violations of the FDCPA, Plaintiff is entitled to actual damages, statutory damages, attorney fees and costs pursuant to 15 U.S.C. § 1692k.

PRAYER FOR RELIEF

Wherefore, Plaintiff requests that the Court enter judgment against each defendant for:

- A. Actual Damages;
- B. Statutory Damages;
- C. Attorney Fees and Costs; and
- D. Such other relief that the Court deem proper.

DATED November 1, 2011.



Keith D. Karnes OSB # 03352
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